

United States Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights, and Human Rights
"Law Enforcement Responses to Disabled Americans: Promising Approaches
for Protecting Public Safety"

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Thank you, Chairman Durbin, Ranking Member Cruz, and members of the Subcommittee, for the opportunity to submit written testimony for this hearing on law enforcement responses to Americans with disabilities.

The Vera Institute of Justice (Vera) is an independent, nonpartisan, nonprofit center for justice policy and practice, with offices in New York City, Washington, D.C., Los Angeles, and New Orleans. Since 1961, Vera has combined expertise in research, technical assistance, and demonstration projects to help develop justice systems that are fairer, more humane, and more effective for everyone.

A. Background on Disability Concerns in America

Equal opportunity for people with disabilities in the United States has commonly built upon the vision and language of the Civil Rights Act of 1964. There has been a perception of people with disabilities as a minority group with the same needs for protections of rights to equal opportunity as everyone else. Estimates of the number of people with disabilities in the United States vary for a variety of reasons: it is difficult to categorize, may not be a fixed condition and may not be acknowledged by the person. Estimates of the size of the population of people with disabilities in the U.S. include the 54 million that was used prevalently during the development and passage of the Americans with Disabilities Act (ADA) in 1990. That number is largely supported still by U.S. Census reports. In 2003, the Census Bureau released an analysis of 2000 census data that found 49.7 million people in the age group 5 years and over, non-institutionalized population, with at least one disability.¹

A small but persuasive body of research suggests that violence and abuse occur at epidemic rates among people with disabilities. It also suggests that people with specific kinds of disabilities are at a higher risk than others. Individuals with developmental disabilities, for example, are up to 10 times more likely to experience sexual assault than other adults. In one study, among adults who had a developmental disability, as many as

¹ U.S. Census Bureau (2003). Disability Status: 2000, Census 2000 Brief.

83 percent of females and 32 percent of the males are the victims of sexual assault.² Moreover, research and anecdotal evidence indicate that Deaf individuals and people with disabilities—regardless of their disability type—experience significant barriers to accessing and receiving services that provide support and safety for survivors of domestic and sexual violence.

In 2012, the age-adjusted rate of violent victimization for persons with disabilities (60 per 1,000 persons with disabilities) was nearly three times the rate among persons without disabilities (22 per 1,000 persons without disabilities). According to the most recent FBI statistics on hate crimes, 105 individuals were victims of a hate crime due to the offender’s bias against a disability in 2012. People with disabilities are especially vulnerable to crime, and given the significant population of people living with disabilities in the United States, it is important to provide services to support them.³

B. Violence Against Americans with Disabilities

Though greater research is needed, the research and anecdotal evidence that does exist consistently suggests that people with particular disabilities are at a higher risk for victimization. Adults with disabilities, for example, are 3 times more likely to experience violent victimization.⁴ Children with disabilities are **almost 2 times** more likely to be neglected or abused.⁵ For example, children with disabilities are 2.9 times more likely than children without disabilities to be sexually abused and the rate is even higher (almost five times) for children with intellectual or mental health disabilities.⁶

People with specific kinds of disabilities are at higher risk than others. Individuals with cognitive or intellectual disabilities, for example, experience the highest rates of victimization. Additionally, individuals with multiple disabilities are more likely than those with one disability to be victimized.⁷

Individuals with disabilities are also more likely to experience certain crimes than others, with rates of sexual violence being alarmingly high. Both men and women reported markedly higher levels of lifetime and past-year sexual assault – from two to four times higher than individuals without disabilities.⁸ Some studies have found that individuals with developmental disabilities are up to ten times more likely to experience sexual assault than others. In one study, among adults who had a developmental disability, as many as 83 percent of females and 32 percent of the males are the victims of sexual

²D. Sobsey and S. Mansell. 1990. The prevention of sexual abuse and assault. Sexual exploitation of people with disabilities [Special Issue]. *Sexuality and Disability*, 9, 243-259.

³ Crimes Against Persons with Disabilities. BJS, 2009-2012.

⁴ Crimes Against Persons with Disabilities. BJS, 2009-2012.

⁵ Sullivan, P. M. et al (1997) Maltreatment of children with disabilities: family risk factors and prevention implications. *Journal of Child Centred Practice*, 4(1): 33-46.

⁶ Lund, Emily M., and Vaughn-Jensen, J. 2012. “Victimisation of Children with Disabilities.” *The Lancet*, Volume 380 (Issue 9845), 867-869.

⁷ Rand and Harrell, *Crime Against People with Disabilities*, 2007, 4.

⁸ M. Mitra, V.E. Mouradian, and M. Diamond. 2011. Sexual Violence against men with disabilities. . *American Journal of Preventive Medicine* 41(5) 494-7.

assault.⁹ While sexual assault is of particular concern to girls and women with disabilities, boys and men with disabilities experience high rates of sexual violence, as well. A recent prevalence study based on data from the Massachusetts Behavioral Risk Factor Surveillance System (n=25,756) found that men with disabilities were more likely to have experienced past-year sexual assault than men and women without disabilities, but less likely than women with disabilities.¹⁰

Compounding the problem of high incidence of victimization is that people with disabilities, compared to people without disabilities, are more likely to experience more severe victimization, experience it for a longer duration, be victims of multiple episodes of abuse, and be victims of a larger number of perpetrators.¹¹ People with disabilities are at an increased risk for experiencing violence in unique settings, including group homes, hospitals and institutions. Finally, while people with disabilities are victimized by many of the same people who victimize people without disabilities such as partners, family members, and acquaintances, they are also victimized by professionals connected to them through their disability such as personal care attendants, transportation providers, and health professionals.¹²

Despite high rates of victimization, crime victims with disabilities are underserved by victim services programs and the criminal justice system. Many of the traditional avenues of support for victims of crime are currently inadequate for people with disabilities. Unfortunately, when victims with disabilities seek help, they often find that their trusted disability providers are not equipped to support them in finding respite from the violence in their lives and victim services organizations, who they are often unaware of, are often inaccessible and not equipped to serve people with disabilities.¹³

The criminal justice system possesses barriers unique to its roles. Law enforcement personnel lack training on how to effectively interview survivors with disabilities, especially those with cognitive disabilities or other disabilities that impact speech. Prosecutors often question the credibility of survivors with cognitive or psychiatric disabilities, which often results in the dismissal of these cases. In addition, court and other personnel often lack knowledge about how to effectively provide accommodations, such as American Sign Language interpreters, resulting in flawed investigations and case dismissals. Moreover, a lack of cross-system collaboration prevents the sharing of

⁹ I Johnson, R. Sigler. 2000. Forced Sexual Intercourse Among Intimates. *Journal of Interpersonal Violence*. 15 (1). Available at <http://www.wcasa.org/info/factsheets/disabfact.htm> (accessed April 12, 2010).

¹⁰ Mitra, M., Mouradian, V. E., & Diamond, M. (2011). Sexual violence victimization against men with disabilities. *American Journal of Preventive Medicine*, 41(5), 494-497.

¹¹ J. Schaller and J.L. Fieberg, 1998. Issues of abuse for women with disabilities and implications for rehabilitation counseling. *Journal of Applied Rehabilitation Counseling*. 29(2), 9-17.

¹² J.P. Atkinson and K.M. Ward (2012) The Development of an assessment of interpersonal violence for individuals with intellectual and developmental disabilities. *Sexuality and Disability* 30(3) 301-309.

¹³Office for Victims of Crime (OVC), Promising Practices in Serving Crime Victims with [Disabilities](#). http://www.ovc.gov/publications/infores/ServingVictimsWithDisabilities_bulletin/crime.html#patterns (accessed February 27, 2014)

resources and knowledge to address the gaps within service delivery and criminal justice systems.

C. Substance Use and Mental Health

For decades in the U.S., individuals whose underlying problem is an illness or an addiction have been over-represented in the nation's criminal justice system. Mental illness is 2 to 6 times more prevalent in correctional facilities than in the general population, and more than 7 out of 10 prisoners with a mental illness also struggle with addiction.¹⁴ It is well documented that people with psychiatric needs do not fare well in correctional environments, where they are more likely to be victimized and placed in segregation that can lead to further decompensation.¹⁵

Recent research published in the *American Journal of Public Health* found that people with serious mental illness are 3.7 times as likely to self-harm for every day they are held in New York City jails are more than six times as likely to engage in potentially fatal self-harm compared with others in custody.¹⁶ Equally troubling, prison populations across the country have swelled due to long sentences for nonviolent drug offenses.¹⁷

Despite the high rates of need, the quality of health services available behind bars is generally poor and there is a lack of communication between criminal agencies and community treatment providers to help ensure that these individuals are linked to services as they transition between systems. This can result in what has been described as a “revolving door” where people with mental health needs needlessly and continuously cycle between the street and jail, while their psychiatric needs go largely unaddressed.

But this is beginning to change. Many policymakers and practitioners see these trends as costly and counterproductive, and are actively seeking alternatives. Several provisions of national health reform, including Medicaid expansions and parity, offers new opportunities for state and local jurisdictions to bolster the capacity of behavioral health services in the community and support collaborative approaches between health and justice agencies to abate the over-incarceration of people with serious mental illness.

Through Vera's research it has been particularly clear that more preventative measures are needed at the front-end of criminal justice systems that are designed to divert people whose contact with law enforcement is caused by an underlying mental health need away from incarceration and connect them with the community-based services. A growing body of research shows that diversion can effectively reduce recidivism, improve health,

¹⁴ Baillargeon, J., Binswanger, I., Penn, J., Williams, B., & Murray, O. (2009). Psychiatric disorders and repeat incarcerations: the revolving prison door. *American Journal of Psychiatry*, 166(1), 103-109; See also, Steadman, H., Osher, F., Robbins, P. C., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric Services*, 60(6), 761-765.

¹⁵ Blitz, C. L., Wolff, N., & Shi, J. (2008). Physical victimization in prison: the role of mental illness. *International Journal of Law and Psychiatry*, 31(5), 385-393,

¹⁶ Kaba, F., Lewis, A., Glowa-Kollisch, S., Hadler, J., Lee, D., Alper, H., & Venters, H. (2014). “Solitary confinement and risk of self-harm among jail inmates”. *American Journal of Public Health*, 104(3), 442-447. Chicago.

¹⁷ King, R. S., & Mauer, M. (2002). “Distorted priorities: Drug offenders in state prisons.” Sentencing Project.

and yield cost savings.¹⁸ Having specially trained law enforcement units, such as Crisis Intervention Teams (CITs) is one essential diversionary tool. CITs are expert teams comprised of police officers and mental health professionals who are specially trained to peacefully deescalate situations where police are called to respond to a person who is in a state of emotional crisis or psychosis. As Jim Parsons, Vera’s Vice President and Research Director, wrote recently:

“Training police officers on how to respond appropriately to people with mental illness can prevent the tragic deaths that can result from these interactions, but the police are only one part of a coordinated approach that is needed to better serve the increasing number of people with serious mental illness who come into contact with the criminal justice system.”¹⁹

In New York City, panelists at a recent briefing convened by the Vera Institute of Justice also described initiatives to provide mental health interventions at various points in the criminal justice system.²⁰ These range from the initial encounter with a law enforcement officer, to programs that identify mental health needs when defendants first come into contact with the courts, to specialized mental health courts created as an alternative to incarceration for defendants with mental illness, to services designed to help people connect with treatment in the community upon their release from custody.

It is essential to grasp opportunities to connect people with the services and treatment needed to address their mental illness in community settings, rather than placement in jail and prison for noncriminal behavior. The disproportionate number of people with behavioral health disorders involved in the criminal justice system puts a tremendous strain on scarce public resources and has a huge impact on health care and criminal justice budgets. However, with appropriate treatment and access to community-based services, this population is less likely to be incarcerated and more likely to lead healthy, productive lives, resulting in substantial costs savings.²¹

D. The mental health of crime victims

Research on “secondary victimization” describes how contact with the criminal justice systems can have a detrimental impact on the mental health of victims, beyond the experience of the original crime.²² For example, the initial contact with law enforcement can leave victims feeling that their experiences are not taken seriously by the police or are treated purely as an administrative matter. In the courts, crime victims often report that the process for hearing cases is confusing and that the outcomes seem arbitrary. We need to do a better job of supporting victims if we are to avoid exacerbating the trauma of

¹⁸ David Cloud & Chelsea Davis. “Treatment Alternatives to Incarceration for People with Mental Health Needs in the Criminal Justice System: The Cost-Savings Implications.” (Vera Institute of Justice, 2013).

¹⁹ Letter to the Editor, *New York Times*, April 11, 2014, located at:

http://www.nytimes.com/2014/04/12/opinion/mentally-ill-in-prison-and-outside.html?_r=1

²⁰ Panel can be seen at: <http://www.vera.org/videos/justice-transition-nyc-justice-system-mental-illness-trailer>

²¹ <http://www.vera.org/sites/default/files/resources/downloads/treatment-alternatives-to-incarceration.pdf>

²² Parsons, J., Bergin, T. (2010) The impact of criminal justice involvement on victims’ mental health. *Journal of Traumatic Stress*, 23, 128.

violent crime. Studies of procedural justice have shown that victims report greater satisfaction with the outcome of their case and may experience improvements in their mental health if they feel that the police and courts acted in a way that was fair and equitable, that includes the perspective of all parties involved.^{23,24}

E. Vera's Work

Vera's Center on Victimization and Safety (CVS) works with communities around the country to fashion services that reach, appeal to, and benefit all victims. CVS's work includes initiatives focused on populations at elevated risk of harm who are often marginalized to ensure that these underserved victims of crime have equal access to services and criminal justice interventions. The Center combines research, technical assistance, and training to help policymakers and practitioners close gaps in systems and ensure that all survivors of violence have access to the services and support they need and want.

There is still much to learn about how individuals with disabilities experience crime and use victim services and the criminal justice system, as well as what services are most responsive to their needs and effective in the long run. To build the kind of knowledge that makes a real difference in the lives of victims, Vera is conducting empirical studies in the area and finding ways to better link practitioners to research findings. For example, with the support of the National Institute of Justice, Vera is currently studying how cases involving sexual assaults of people with disabilities are prosecuted. In the past, Vera has studied other areas such as the prevalence and nature of sexual abuse among children with disabilities and used our research to craft prevention strategies and inform the work of policy-makers and practitioners across the country.

In 2012, Vera partnered with the Ms. Foundation for Women to examine the prevalence of this abuse and existing responses and to recommend next steps for a national strategy to respond to this epidemic. Vera's brief, *Sexual Abuse of Children with Disabilities: A National Snapshot*, summarizes the study, its findings, and its recommendations.²⁵ The report finds that the higher incidence rate of sexual abuse of children with disabilities, coupled with the gaps in prevention efforts and barriers to getting help these children and their families face, warrant dedicating increased attention and resources to this issue. People and organizations charged with supporting children with disabilities and those addressing sexual abuse must strengthen their commitment and action to stop this epidemic and to assist the children who have been affected by it.

The complexities of the issues surrounding sexual abuse of children with disabilities require a unified and cohesive strategy. Because no such national strategy currently exists, the first and essential step is to create and, ultimately, implement one. Forums on the local, state, and national level can bring together people with disabilities, their family

²³ Orth, U. (2002). Secondary victimization of crime victims by criminal proceedings. *Social Justice Research*, 15, 313-325.

²⁴ Bell, M.E. (2007). Empowerment and disempowerment for victims of intimate partner violence: An overview of the effects of criminal justice system practices. In K. Kendall-Tackett, & S. Giacomoni (Eds.) *Intimate Partner Violence*.

²⁵ <http://www.vera.org/pubs/sexual-abuse-of-children-with-disabilities-national-snapshot>

members, and professionals from the areas of criminal justice, disability, health and medicine, schools, and victim services, among others.

Vera is also working nationally and with specific Department of Justice-funded communities – more than 50 communities in 21 states since 2006 – to create equal access to victim services and criminal justice options for victims with disabilities, especially those who are experiencing domestic and sexual violence. Vera is helping disability organizations develop and implement screening tools to identify people who have experienced domestic or sexual violence and implement procedures that ensure staff provide crisis interventions to victims. Vera is also helping victim services organizations design better outreach strategies to people with disabilities and to remove physical, attitudinal, and programmatic barriers that prevent people with disabilities from using their services. Moreover, by building collaborations between victim services and disability organizations and better sharing resources, Vera is helping these communities to enhance their existing infrastructure instead of creating new services for victims with disabilities.

Vera is sharing the lessons-learned and model policies and practices developed in these demonstration communities through a training academy. Since 2008, through in-person conferences and trainings, as well as webinars and video-conferences, Vera has trained more than **2000** law enforcement officers, victim service providers, disability advocates, and other professionals to respond more effectively to crime victims with disabilities. Vera has also offered specialized trainings to American Sign Language interpreters to increase their capacity for interpreting in contexts of domestic and sexual violence and is in the process of developing a training to help people with disabilities become more active in the movement to end violence in their lives.

Vera is also helping government and nonprofit organizations identify what works and what doesn't when it comes to effectively serving victims with disabilities. With support from the U.S. Department of Justice, Vera has developed practical system based on performance indicators organizations working to improve their services for victims with disabilities can use to track their progress. Currently, Vera is piloting this system in 10 communities across the country, with the hopes of expanding nationwide at the end of the year.

In addition, Vera's Substance Use and Mental Health Program (SUMH) is helping states and localities fashion evidence-based policies and practices that expand access to behavioral health care and promote greater collaboration between health and justice agencies to make the most effective use of public resources.

SUMH conducts applied research to help public officials and community organizations develop empirically driven responses to the substance use and mental health needs of people involved in justice systems. SUMH staff collect and analyze quantitative and qualitative data and evaluate existing programs to understand the experiences of those affected by psychiatric disorders or substance use and policies that prolong their involvement in the justice system.

SUMH's DC Forensic Health Project (DCFHP) uses data from several Washington, DC agencies to gauge rates of mental health problems among people arrested in the District and to assess the services they receive. Its aim is to provide government and community-based organizations with the information they need to improve the effectiveness and reach of mental health services.

Currently, SUMH has funding from the Bureau of Justice Assistance to conduct a follow-up study of this analysis that will include the Medicaid agency data with the goal of developing strategies related to Medicaid enrollment and care coordination. The Project, which is called "Bridging the Justice-Health Divide: Furthering Innovation through Information Sharing," began last year and it will be completed in 2016.

The project's main goals are to: 1) Create a multi-agency database to profile rates of mental health data, service engagement and Medicaid enrollment, using an innovative data matching and encryption technique; 2) support local agencies in efforts to use data to guide decision-making; and 3) provide practical guidance to a national audience of practitioners. We look forward to sharing findings from this work with the Committee as it continues to focus on this important topic.

The program also maintains a national online resource, *Justice and Health Connect*, which provides policymakers with practical guidance for increasing information sharing across health and justice systems to improve public safety and health outcomes, and make more efficient use of public resources.²⁶

SUMH team members are part of a pioneering Steering Committee comprised of John Jay College of Criminal Justice, Columbia University, and New York University called "From Punishment to Public Health" that is in part, exploring innovative ways for public health and law enforcement to develop collaborative solutions to address the over-representation of people with serious mental health needs in NYC's criminal justice system.

SUMH recently completed an in-depth analysis for the New York State Office of Mental Health and the New York City Department of Health and Mental Hygiene and provided recommendations to help improve forensic psychiatric services for individuals found incompetent to stand trial and committed to a state hospital for treatment. SUMH is currently working with a range of state and local stakeholders to develop plans for alternative competency restoration service models to improve the efficiency and effectiveness of New York's competency restoration treatment for an extremely vulnerable population.

Vera is also partnering with the Bureau of Correctional Health Services in New York City's Department of Health and Mental Hygiene to implement significant reforms to how ways that arrestees are screened for health problems in the city's central booking

²⁶ www.jhconnect.org.

facilities. SUMH has established a Steering Committee and coordinating efforts to increase the capacity of staff working in central booking to detect acute and chronic health conditions, and utilize health information technology to improve clinical decision-making and triage of care between providers working in community health and correctional settings.

F. Concluding Statement

In closing, I would like to thank the Chairman and Ranking Member for holding this important hearing, and for the opportunity to provide written testimony. Please do not hesitate to contact us if the Vera Institute of Justice can provide further assistance.